

The complaint

Miss W complains Morses Club PLC (Morses) gave her loans that she couldn't afford to repay.

What happened

Miss W took five home collected loans between June 2019 and May 2021 I've included some of the information we've received about these loans in the table below.

loan number	loan amount	agreement date	loan repayment date	term (weeks)	weekly repayment
1	£100.00	20/06/2019	03/09/2019	20	£7.50
2	£300.00	03/09/2019	11/12/2020	33	£15.00
3	£100.00	19/11/2019	11/12/2020	34	£5.00
4	£300.00	05/03/2021	outstanding	34	£15.00
5	£200.00	24/05/2021	outstanding	35	£10.00

The statement of account provided to the Financial Ombudsman from Morses shows that Miss W has had problems repaying her final two loans and as of October 2021 an outstanding balance remained.

The 'weekly repayment' column is the cost per week per loan, so where loans overlapped the cost per week will be more. For example, when loans 2 and 3 were running Miss W's weekly commitment to Morses was £20.

Morses considered Miss W's complaint and issued its final response letter on this matter in August 2021. Morses investigated the complaint and concluded it hadn't made an error when it approved loans 1 and 2 for Miss W.

But Morses agreed that it should've made further enquiries into Miss W's financial position when loans 3 – 5 were granted and so it upheld her complaint about these loans. It offered to refund the interest, fees and charges and offset this against the balance that Miss W had for loans 4 and 5. The result was that Miss W's balance would reduce to £181.16.

Morses also agreed to remove these loans from Miss W's credit file.

Miss W didn't agree with the outcome reached by Morses and she referred the complaint to the Financial Ombudsman in August 2021.

The complaint was considered by an adjudicator who didn't consider loans 3 – 5 because Morses, in its final response letter had already accepted something had gone wrong and had already made an offer to put things right. She concluded the offer Morses had made was in line with what the Financial Ombudsman may have awarded if it had decided that these loans should be upheld.

The adjudicator didn't think it was unreasonable for Morses to have provided loans 1 and 2 because it was apparent to Morses that the loans were affordable and given it was early in

the lending relationship she didn't think Morses needed to have verified the information Miss W had provided. She didn't uphold Miss W's complaint about loans 1 and 2.

Morses didn't respond to the adjudicator's assessment.

Miss W appears to not have accepted the adjudicator's conclusions. Miss W wasn't sure why, if Morses had accepted the loans ought to not have been advanced, that she still owes it money.

The adjudicator went back to Miss W to explain that by offering the redress that Morses had, it was in effect giving her an interest free loan. Later, she also asked what Miss W was unhappy with, the redress that was being offered or the outcome of loans 1 and 2.

Miss W responded, to say that Morses "...*should do more of a credit check to see if there credit is at a good rate*". Miss W also says that her financial position is such, that she can't afford to repay what is owed.

Sometime later, the Financial Ombudsman heard from a third-party claims management company. After speaking to Miss W, she confirmed she wanted the third party to act on her behalf. This company has now been added to her complaint.

At the same time, Miss W has told us Morses had sold her debt onto a third party.

As no agreement has been reached, the case has been passed to me for a decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've set out our general approach to complaints about short-term lending - including all the relevant rules, guidance and good industry practice - on our website.

Morses had to assess the lending to check if Miss W could afford to pay back the amounts she'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Morses' checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Miss W's income and expenditure.

With this in mind, I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Morses should have done more to establish that any lending was sustainable for Miss W. These factors include:

- Miss W having a low income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- The amounts to be repaid being especially high (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- Miss W having a large number of loans and/or having these loans over a long period of time (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);
- Miss W coming back for loans shortly after previous borrowing had been repaid (also suggestive of the borrowing becoming unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable for Miss W.

Morses was required to establish whether Miss W could *sustainably* repay the loans – not just whether she technically had enough money to make her repayments. Having enough money to make the repayments could of course be an indicator that Miss W was able to repay her loans sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that payments are sustainable if they are made without undue difficulties and in particular, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Miss W's complaint.

I won't make a finding about loans 3 - 5, because Morses has already agreed these loans shouldn't have been advanced. I appreciate Miss W says the amount that is due to be paid is unaffordable, and again, I'd remind Mores of its obligation to treat Miss W fairly and with forbearance when discussing a way forward.

For completeness, I've included what Morses needs to do to put things right (and what it has agreed to do) for Miss W in relation to loans 3-5 at the end of this decision.

Instead, I've focussed below on what happens when loans 1 and 2 were granted.

Loans 1 and 2

The adjudicator didn't uphold Miss W's complaint about these loans, and I agree with her, based on the evidence that I've seen from both Morses and Miss W.

For these loans Miss W declared she had a weekly income of between £184 and £195. And her declared weekly expenditure was declared as being between £74 and £75.50. This left Miss W with a weekly disposable income of between £108.50 and £121. Which was more than sufficient to afford the largest contractual repayments due under loan 2 of £15 per week.

Morses may have carried out a credit search before these loans were approved, but it hasn't given the Financial Ombudsman the results from this. The only results it has given us is for the one it carried out before loan 3 was approved. But the information contained within would've covered the same period as to when loans 1 and 2 were approved.

I've reviewed the results and there doesn't appear to have been anything contained within them, such as County Court Judgements, defaults or other adverse information which may have prompted Mores either to make further enquires with Miss W or to have declined her first two loan applications.

Based on the information Miss W declared Morses could've been confident she was in a position to afford the contractual repayments she was due to make for these loans. Given this was in the early part of the lending relationship, I think the checks that Morses did were proportionate and it didn't need to do any further checks before agreeing to these loans.

There also wasn't anything else that Morses may have been aware of that may have indicated to it that Miss W was or likely having financial difficulties. I accept that Miss W had

some problems repaying loan 2 and it took significantly longer than Moses had anticipated to repay this loan. But based on what I've seen, there wasn't anything else prior to this to indicate that Miss W may have been having problems.

I've also thought about that loan 2 was taken out on the same day loan 1 was repaid and it was for a larger amount. But the weekly repayment was still fairly modest, and there didn't appear to have been any repayment problems when repaying loan 1. So, overall, I think it was reasonable for Moses to still have relied on the information Miss W provided it.

As this is the case, I'm not upholding Miss W's complaint about loans 1 and 2.

Loans 3 - 5

As I said at the start of the decision, I won't comment further on whether Moses was right or wrong to approve these loans because it has already accepted that something did go wrong when these were advanced. So, there is nothing further for me to decide in relation to this lending.

What I would say, is that Moses has agreed to settle these loans in line with the well-established approach the Financial Ombudsman takes, and I see no reason why, in this case, this approach should be departed from.

Should it be decided that loans shouldn't be given, as far as possible the approach the Financial Ombudsman Service takes is to put a consumer back into the position they would've been in had the error (in this case the loans being advanced) not been made.

However, that isn't always possible as is the case here. Miss W has been advanced money which has been spent so it's not possible, to just unwind these loans as if they didn't happen because there is, potentially outstanding principal that ordinarily ought to have been repaid.

It is far less complex to pay compensation for loans that have been advanced and repaid. So, what I do think is fair, is that any loan that has been lent and repaid (such as loan 3) then Miss W shouldn't have paid any interest, fees and charges towards it. Which the offer Moses has made does do.

Where loans have been taken out and not repaid, I don't think it is fair that Moses should be able to collect more than the capital amount loaned. So, for loans 4 and 5, Moses can't collect more than £500 – as it isn't fair that Moses charges or applies interest, fees or charges to these loan balances. In effect, it is providing Miss W with interest free lending. But there is an expectation that any capital that is advanced is repaid.

Looking at the redress that Moses has offered on these loans I'm satisfied the offer to put things right is in line with the approach that I would've taken had I decided that these loans ought to not have been advanced. I've outlined below, what Moses needs to do (and what it has agreed to do) in order to put things right for Miss W.

I'm sorry to hear about Miss W's financial position, and that repaying the final outstanding balance may prove difficult. But, Moses has an obligation to treat her positively and with forbearance when coming to any agreement in repaying what is owed.

I acknowledge that Miss W is likely to be disappointed by this outcome, but I hope my explanation has provided useful as to why I've reached the conclusions that I have.

Putting things right

Morses has already accepted that loans 3 - 5 shouldn't have been provided and I've outlined below what it has already agreed to do to put things right for Miss W – as outlined in the final response letter.

If Morses have sold the outstanding debts it should buy these back if it is able to do so and then take the following steps. If Morses is not able to buy the debts back then it should liaise with the new debt owner to achieve the results outlined below.

- A. Morses should add together the total of the repayments made by Miss W towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything Morses has already refunded.
- B. Morses should calculate 8% simple interest* on the individual payments made by Miss W which were considered as part of "A", calculated from the date Miss W originally made the payments, to the date the complaint is settled.
- C. Morses should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Miss W as though they had been repayments of the principal on all outstanding loans. If this results in Miss W having made overpayments then Morses should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. Morses should then refund the amounts calculated in "A" and "B" and move to step "E".
- D. If there is still an outstanding balance(s) then the amounts calculated in "A" and "B" should be used to repay any balance remaining on outstanding loans and any principal Morses may have already written-off. If this results in a surplus then the surplus should be paid to Miss W. However, if there is still an outstanding balance then you should try to agree an affordable repayment plan with Miss W.
- E. As Morses has agreed in the final response letter, it should remove loans 3 – 5 from Miss W's credit file.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Miss W a certificate showing how much tax it deducted if she asks for one.

If an outstanding balance(s) remains I'd remind Morses of its obligation to treat Miss W with fairly and with forbearance.

My final decision

For the reasons I've explained above, I'm not upholding Miss W's complaint about loans 1 and 2. But Morses Club PLC should put things right for Miss W as it agreed to do in the final response letter and as directed above for loans 3 - 5.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 12 May 2022.

Robert Walker
Ombudsman